

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Austin Jeffrey Jones,

Case No. 23-cv-2386 (WMW/JFD)

Plaintiff,

v.

**ORDER**

Anthony C. Stofferahn, et al.,

Defendants.

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This matter is before the Court on Plaintiff Austin Jeffrey Jones's Motion to Amend Complaint (Dkt. No. 10). Mr. Jones filed his original complaint (Dkt. No. 1) on August 7, 2023. No summonses have been returned executed, and thus the Court presumes that Mr. Jones has not yet served the summons and complaint on any Defendant.

Federal Rule of Civil Procedure 15(a)(1) provides that a party may amend his complaint "once as a matter of course" no later than "(A) 21 days after serving it, or (B) if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f), whichever is earlier." Although Mr. Jones presumably has not yet served the original complaint, the Court will treat his motion as his "once as a matter of course" amendment under Rule 15(a)(1). *See Milk v. Ripperda*, No. 4:23-CV-04063-KES, 2023 WL 4933146, at \*1 (D.S.D. Aug. 2, 2023) (allowing the plaintiff to amend his complaint as a matter of course where defendants were not yet served and the plaintiff had not amended his complaint before); *Harris v. A.D.C.*, No. 23-CV-170 (ECT/TNL), 2023 WL 3742052, at

\*4 (D. Minn. Apr. 25, 2023), *R. & R. adopted*, 2023 WL 3737104 (D. Minn. May 31, 2023) (where defendants had yet to be served, allowing the plaintiff to amend “as a matter of course” under Rule 15(a)(1)); *Jackson v. Schnell*, No. 23-CV-0366 (PJS/DTS), 2023 WL 3630889, at \*2 (D. Minn. Apr. 20, 2023), *R. & R. adopted*, 2023 WL 3628722 (D. Minn. May 24, 2023). Plaintiff shall file the amended complaint on or before October 17, 2023.

Accordingly, **IT IS HEREBY ORDERED** that:

1. Plaintiff Austin Jeffrey Jones’s Motion to Amend Complaint (Dkt. No. 10) is **GRANTED** in that Mr. Jones may amend his complaint as a matter of course pursuant to Federal Rule of Civil Procedure 15(a)(1); and
2. Plaintiff shall file the amended complaint, which is attached to his motion as an exhibit, on or before October 17, 2023.

Date: October 3, 2023

s/ John F. Docherty  
JOHN F. DOCHERTY  
United States Magistrate Judge